

01-25-02

PTO/SB/05 (03-01)

Approved for use through 10/31/2002. OMB 0651-0032

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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No. I/Dutta-001

First Inventor DUTTA

Title A size variable strain-specific protective antigen for Potomac Horse Fever

Express Mail Label No. KT 7925 3474545

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO: Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

- ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
- ☐ Applicant claims small entity status.
See 37 CFR 1.27.
- ☒ Specification [Total Pages 61]
(preferred arrangement set forth below)
 - Descriptive title of the invention
 - Cross Reference to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table, or a computer program listing appendix
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
- ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets 13]
- Oath or Declaration [Total Pages]
 - ☐ Newly executed (original or copy)
 - ☐ Copy from a prior application (37 CFR 1.63 (d))
(for continuation/divisional with Box 18 completed)
 - ☐ **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
- ☐ Application Data Sheet. See 37 CFR 1.76

- ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
- Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
 - ☐ Computer Readable Form (CRF)
 - Specification Sequence Listing on:
 - ☐ CD-ROM or CD-R (2 copies); or
 - ☐ paper
 - ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

- ☐ Assignment Papers (cover sheet & document(s))
- ☐ 37 CFR 3.73(b) Statement [checked] Power of Attorney
(when there is an assignee)
- ☐ English Translation Document (if applicable)
- ☐ Information Disclosure Statement (IDS)/PTO-1449 [] Copies of IDS Citations
- ☒ Preliminary Amendment
- ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
- ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
- ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
- ☐ Other:

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☒ Divisional ☐ Continuation-in-part (CIP) of prior application No.: 09,157,257
Prior application information: Examiner: J. Graser Group Art Unit: 1645

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

<input type="checkbox"/> Customer Number or Bar Code Label	(Insert Customer No. or Attach bar code label here)	or	<input checked="" type="checkbox"/> Correspondence address below
Name	Intervet Inc, Patent Department		
Address	405 State Street		
	P.O. Box 318		
City	Millsboro	State	DE
		Zip Code	19966-0318
Country	US	Telephone	302 933 4034
		Fax	302 933 4013

Name (Print/Type)	William P Ramey III	Registration No. (Attorney/Agent)	44,295
Signature		Date	01/23/2002

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

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<h1 style="margin: 0;">FEE TRANSMITTAL</h1> <h2 style="margin: 0;">for FY 2002</h2> <p style="margin: 5px 0 0 40px;">Patent fees are subject to annual revision.</p>		Complete if Known	
TOTAL AMOUNT OF PAYMENT (\$) 740.00		Application Number	Unknown
		Filing Date	01/23/2002 <i>Anticipated</i>
		First Named Inventor	DUTTA
		Examiner Name	To be assigned
		Group Art Unit	TBA
		Attorney Docket No.	I/Dutta-001 D1

METHOD OF PAYMENT	FEE CALCULATION (continued)																																																																																																																																																																																																																		
<p>1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:</p> <p>Deposit Account Number: 02-2334</p> <p>Deposit Account Name: _____</p> <p><input checked="" type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17</p> <p><input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27</p> <p>2. <input type="checkbox"/> Payment Enclosed:</p> <p><input type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money Order <input type="checkbox"/> Other</p>	<p>3. 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**or number previously paid, if greater; For Reissues, see above

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SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	William P Ramey III	Registration No. (Attorney/Agent)	44,295
Signature	<i>William P Ramey III</i>	Telephone	302 933 4037
		Date	01/23/2002

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Date: 1/23/02

Atty Docket No.: I/Dutta-001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DUTTA ET AL.

Serial No.: Unknown

Group Art Unit: To be assigned

Filed: January 23, 2002 (Anticipated)

Examiner: To be assigned

For: A SIZE-VARIABLE STRAIN-SPECIFIC PROTECTIVE ANTIGEN FOR
POTOMAC HORSE FEVER

Assistant Commissioner of Patents
Washington, D.C. 20231

Dear Sir:

REQUEST FOR FILING OF DIVISIONAL APPLICATION

PURSUANT TO 37 C.F.R. §1.53(B) AND PRELIMINARY AMENDMENT

Applicants respectfully request acknowledgement of the filing of this divisional application of application serial number 09/157,257 pursuant to 37 CFR §1.53(b) and

Applicants further request the following preliminary amendment be entered:

I. PRELIMINARY AMENDMENT

A. IN THE CLAIMS (CLEAN SHEET)

28. An isolated strain of *E. risticii* having essentially the same antigenic characteristics of *E. risticii* strain 90-12.
29. An isolated strain of an organism having essentially the same antigenic characteristics of *E. risticii* strain 90-12.
30. A vaccine comprising an immunogenically effective amount of the *E. risticii* strain of Claim 28.
31. A vaccine comprising an immunogenically effective amount of the *E. risticii* strain of Claim 29.
32. The vaccine of Claim 30, which is a killed vaccine.
33. The vaccine of Claim 31, which is a killed vaccine.
34. A method of protecting a mammal against Potomac Horse Fever comprising the step of administering an effective amount of the vaccine of Claim 30.
35. A method of protecting a mammal against Potomac Horse Fever comprising the step of administering an effective amount of the vaccine of Claim 31.

B. IN THE CLAIMS (MARKED VERSION)

Please cancel Claims 1-27 without prejudice or disclaimer. Such cancellation is not an admission that such claims are not patentable, nor is it an admission that any prior art is relevant.

Please add the following Claims:

- 28. An isolated strain of *E. risticii* having essentially the same antigenic characteristics of *E. risticii* strain 90-12.
29. An isolated strain of an organism having essentially the same antigenic characteristics of *E. risticii* strain 90-12.
30. A vaccine comprising an immunogenically effective amount of the *E. risticii* strain of Claim 28.
31. A vaccine comprising an immunogenically effective amount of the *E. risticii* strain of Claim 29.
32. The vaccine of Claim 30, which is a killed vaccine.
33. The vaccine of Claim 31, which is a killed vaccine.
34. A method of protecting a mammal against Potomac Horse Fever comprising the step of administering an effective amount of the vaccine of Claim 30.
35. A method of protecting a mammal against Potomac Horse Fever comprising the step of administering an effective amount of the vaccine of Claim 31. --

C. IN THE SPECIFICATION (CLEAN SHEET)

Paragraph beginning at line 5 on page 1:

This application claims the benefit of priority under 35 U.S.C. §119(e) to U.S. Provisional Application Serial No. 60/059,252, filed on September 18, 1997 and the benefit of priority under 35 U.S.C. §120 to U.S. Application Serial No. 09/157,257, filed on September 18, 1998.

Paragraph beginning on page 5, line 16:

The SSA may vary widely in both overall size and amino acid composition. The SSA may have a molecular weight of about 40 to about 90 kDa, inclusive of all specific values and subranges therebetween. In specific embodiments of the present invention, the SSA has a molecular weight of about 50 kDa or 85 kDa. Examples of specific amino acid sequences of the inventive SSAa are shown in Figures 2-4 (SEQ ID NO: 4, 6, and 8).

Paragraph beginning on page 5, line 21

The present invention also provides isolated and purified nucleic acid sequences (e.g. recombinant DNAs) which encode the SSAs. Specific examples of nucleotide sequences encoding the SSA of the present invention are shown in Figures 2-4 (SEQ ID NO: 3, 5, and 7). All nucleotide sequences encoding a particular SSA are included in the scope of the present invention. Selecting a nucleic acid encoding a particular amino acid sequence may be readily accomplished by using the well-established genetic code relating the nucleic acid sequence of a codon sequence to the amino acid sequence encoded thereby. The genetic code is provided by R.H. Abeles et al, Biochemistry, Jones

D. IN THE SPECIFICATION (MARKED VERSION)

Please insert – and the benefit of priority under 35 U.S.C. §120 to U.S.

Application Serial No. 09/157,257, filed on September 18, 1998 – after “September 18, 1997”.

At page 5, line 20, please delete “3, 5, and 7” and substitute therefore – 4, 6, and 8

--.

At page 5, line 23, please delete “4, 6, and 8” and substitute therefore – 3, 5, and 7

--.

II. REMARKS

Applicants have filed a divisional pursuant to 37 CFR §1.53(b). The amendment above is to cancel claims and pursue non-elected claims in a previous application. The amendment is not done for reasons of patentability under 35 USC §§101, 102, 103, and/or 112 and no estoppel is created by such amendment.

III. Conclusion

Applicants respectfully request a granting of a filing date to this divisional application. Further, Applicants respectfully request the entering of the preliminary amendment enclosed herein. The application is believed in a condition for allowance and Applicants respectfully request such action. Please call the below undersigned attorney

(The following are some examples of words from the vocabulary book.)

Sincerely,

William P. Ramey, III
Reg. No. 44,295
AKZO Nobel Patent Department
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Millsboro, DE 19966
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(302) 934-4242 facsimile